

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LOUIS G. GOTTLIEB, CATHLEEN FRAZIER, WESLEY ROGES,
and ROGER P. ENGDAHL

Appeal No. 1998-1950
Application No. 08/584,517

ON BRIEF

Before KRASS, JERRY SMITH, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 18, 19, and 26-28.

We affirm.

BACKGROUND

The invention is directed to a system and method for routing a telephone call to an alternate termination when the call cannot be completed to an originally selected termination. Claim 18 is reproduced below.

18. A method of redirecting a telephone call from a first termination in a telecommunications network to a second termination in said telecommunications network, said telecommunications network including a plurality of interconnected switches, wherein said call enters the network at an originating switch, each of said terminations being coupled to a terminating switch, the method comprising the steps of:

(a) routing said call from said originating switch to a first terminating switch coupled to said first termination;

(b) after routing said call to said first terminating switch, determining, at said originating switch, whether said call is completed to said first termination;

(c) upon determining that said call has not been completed, releasing said call from said first terminating switch and transmitting from said originating switch to a network database a request for an indication of a second termination, said request having an indication of said first termination and of the condition encountered;

(d) using information relating to why said call was not successfully completed at said first termination and said condition encountered to select from at least one set of overflow statements providing instructions for overflow routing said second termination at said network database;

(e) transmitting from said network database to said originating switch said indication of said second termination; and

(f) upon receiving said indication of said second termination from said network database, routing said call to a second terminating switch coupled to said second termination.

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The examiner relies on the following reference:

Frey et al. (Frey)	5,253,288	Oct. 12, 1993
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Claims 18, 19, and 26-28 stand rejected under 35 U.S.C. § 103 as being unpatentable over Frey.

Claims 1-17 have been canceled.

Claims 20-25 and 29-33 apparently have been objected to as containing allowable subject matter, but depending from rejected claims.¹

We refer to the Final Rejection (Paper No. 8) and the Examiner's Answer (Paper No. 14) for a statement of the examiner's position and to the Brief (Paper No. 13) and the Reply Brief (Paper No. 15) for appellants' position with respect to the claims which stand rejected.

OPINION

Appellants' main argument in defense of method claim 18 is set out on pages 11 and 12 of the Brief. Appellants focus on the preferred embodiment disclosed by Frey, and note the differences with respect to the instant invention. As alleged in the paragraph

¹ The cover sheet of the Final Rejection (Paper No. 8) states that claims "20-25 and 29-33" have been allowed. The Final Rejection at page 4 states that the claims "would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action...." However, claims 20-25 and 29-33 are all dependent claims, and each depends, directly or indirectly, from rejected base claim 18 or rejected base claim 26. However, there is no 35 U.S.C. § 112 rejection set forth in the Final Rejection. The Advisory Action (Paper No. 10) states that claims 20-25 and 29-33 are "objected to."

bridging pages 11 and 12 of the Brief, Frey, “in contrast” to appellants’ invention, requires that each ingress switch carries in its memory store two sets of tables, 44 and 46, as shown in Frey’s Figure 1. There is “but one” network database in instant claim 18 “to which all originating switches would query when they require an alternate termination to reroute an incoming call.” “Needless to say, the instant invention network database system is more efficient than that of Frey, insofar as the data or information in the network database can readily be updated, as compared to each of the ingress switches of the network having to be individually updated with the requisite information for the Frey system.” (See Brief, pages 11-12.)

However, this purported difference from Frey is at least suggested by the reference, and Frey teaches the same advantage that appellants put forth.

While in this specific embodiment, the database supplies only an initial translation and the subsequent translations are made in the ingress switch, it is also possible to perform all the translations in the database by providing a list of alternative destinations to ingress switch 1 at the time of the first access or to request the alternative destinations in a series of subsequent queries. The advantage of providing these translations from the database is that only one database need be updated as customers for whom redirect capabilities are added or as customers change their redirection requests.

Frey, column 7, lines 36-46.

Thus, while Frey’s preferred embodiment operates as alleged by appellants, Frey also provides reasons why the artisan would have been motivated to use “but one network

database,” rather than distributing the tables among the switches as shown in Frey’s Figure 1.

Appellants also argue, as set forth on page 12 of the Brief, that claim 18 distinguishes over the reference because Frey, when determining an alternate termination, fails to take into account the condition or conditions encountered in attempting to connect a call to a first termination. Frey is alleged to teach that, in contrast, alternate terminations are predefined.

The argument fails to account for at least the following teaching in Frey. “The specific reason for the release may be used to modify the redirection. For example, if the redirection is to the same destination via another egress switch, no redirection is performed if the reason is that the called subscriber is busy.” Id. at column 5, lines 15-19. Performing “no redirection” if “the called subscriber is busy” meets the broad terms of claim 18: “(d) using information relating to why said call was not successfully completed at said first termination and said condition encountered to select from at least one set of overflow statements providing instructions for overflow routing said second termination at said network database.”

Moreover, as described at column 4, lines 51 et seq. of Frey, the release message 60 (Fig. 1), which is sent to ingress switch 1, contains a reason 62 for the release. The reason for release is generated by egress switch 2 from the reason 59 for the call rejection by PBX 30. Frey thus contains the teaching of supplying the telecommunications network

with the reason for a call rejection, and the teaching that the information is to be used for determining which termination is next to be attempted. The teachings are broader than the exemplary “no redirection” if “the called subscriber is busy.” Since the teachings are viewed in light of Frey’s disclosure that a central network database may be used, we find that all the argued limitations of claim 18 are met by the reference.

Appellants also submit arguments in support of claim 26.² “[T]he components set forth with respect to each of the originating switch, terminating switch and network database are not disclosed in Frey.” (Brief, page 12.) Appellants add more words to this argument in the Reply Brief, at page 5. However, the examiner has stated the position (Answer, page 4) that the components as recited in claim 26 are shown in Figure 1 of Frey, in view of the functions performed by the components. We agree that, in view of the written description of Frey and the inferences the artisan would be expected to draw therefrom, the various components set forth in claim 26 are contained in Frey’s Figure 1.

For example, the originating switch (ingress switch 1) must have an indicator of a first termination of a call -- because, as disclosed, ingress switch 1 must possess the information regarding which particular termination (such as PBX 30) is preferred for a particular call. See Frey, column 4, lines 29-38. Ingress switch 1 must also have a call router for selecting the terminating switch (egress switch 2) which is coupled to the

² We acknowledge that, as appellants urge in the Reply Brief, the arguments in the Brief are directed to independent claim 26, rather than dependent claim 28.

indicated first termination (PBX 30) and routing the call to the selected terminating switch. See id. at lines 39-47. The functions performed by the “indicator” and the “call router” are at least inherent in the operation of ingress switch 1, as the reference would be understood by one skilled in the art.

Frey does not specify what portion of the disclosed functions may be performed by hardware and what portion may be performed by software in combination with hardware, but neither does appellants’ claim 26. We also note that the reference need not use the same terminology -- for example, need not use the term “call router” -- to meet the substantive requirements of the claim. See In re Bond, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (anticipation under 35 U.S.C. § 102 is not an “ipsissimis verbis” test).

Frey clearly discloses an “originating switch” (ingress switch 1), a “terminating switch” (egress switch 2), and, in view of the previously-identified teaching in column 7, a “network database.” Appellants refer to limitations of claim 26 (Reply Brief, page 5), but do not explain how any particular “sub-component” may represent something that is not disclosed or suggested by Frey. As such, the arguments amount to no more than unsupported allegation that the claim distinguishes over Frey. Appellants have not pointed out the “specific limitations” of claim 26 which are thought to distinguish over Frey. See 37 C.F.R. § 1.192(c)(8)(iv) (“the argument shall specify the errors in the rejection and, if

appropriate, the specific limitations in the rejected claims which are not described in the prior art relied on in the rejection.”).

Appellants submit that the argument offered with respect to claim 18 is equally applicable to pointing out the differences between the system of claim 26 and the disclosure of Frey (see Reply Brief, page 5). Appellants may be relying on the arguments presented with respect to claim 18, but appellants have not shown that the section 103 rejection of (method) claim 18 is in error. Nor have appellants shown that the rejection of (system) claim 26 is erroneous. We therefore sustain the rejection of claims 18 and 26. Since appellants have not submitted arguments for separate patentability of any dependent claims, we sustain the rejection of claims 18, 19, and 26-28. See 37 C.F.R. § 1.192(c)(7).

CONCLUSION

The rejection of claims 18, 19, and 26-28 is affirmed.

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No time period for taking any subsequent action in connection with this appeal may
be extended under 37 CFR § 1.136(a).

AFFIRMED

ERROL A. KRASS
Administrative Patent Judge

JERRY SMITH
Administrative Patent Judge

HOWARD B. BLANKENSHIP
Administrative Patent Judge

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